

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT, E.D.N.Y.
★ MAY 01 2003 ★
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
:
:
IN RE HABEAS CORPUS CASES
:
:
-----X

MEMORANDUM & ORDER
WITH DIRECTIONS TO
SPECIAL MASTER
03-MISC-66 (JBW)

JACK B. WEINSTEIN, Senior District Judge:

The 478 habeas corpus cases listed in the attached document have just been reassigned to me.

Marc Falkoff has been appointed by Chief Judge Edward R. Korman and by me as Special Master for the disposition of these cases. Mr. Falkoff holds a J.D. from Columbia Law School, a Ph.D. from Brandeis University, an M.A. from the University of Michigan, Ann Arbor, and a B.A. from the University of Pennsylvania. He has served as a judicial clerk in the United States Court of Appeals for the Tenth Circuit and in the United States District Court for the Eastern District of New York. The cases will be decided by me. The Special Master will assist with reports and studies as I direct. He is instructed to approach these cases as follows:

1. These are collateral attacks on judgments of New York State courts, which have a justifiable reputation for protecting defendants' substantive and due process rights.

Constitutional errors may have been made. They will be addressed.

2. Petitioners are entitled under due process and the rule of law to a prompt disposition of their cases. Delay may constitute a denial of due process, particularly since it may result in unjustified prison detention.

JBW

3. In expediting dispositions, the court should consider the psychic costs that result from delays in disposition for a class of generally poor, uneducated and unrepresented prisoners.

Usually they are incarcerated far from their families. Many await a court decision without any explanation for any delays. Except in unusual cases, petitioners are entitled to be heard by the court, at least by telephone.

4. It would be desirable for counsel to be assigned for each petitioner. This is impossible. There is no right to counsel in this type of collateral attack. The Eastern District habeas corpus Criminal Justice Act panel and pro bono panel are insufficient in size to provide counsel for more than a very small fraction of the pending cases.

5. There will be an appreciable burden on the District Attorneys who must respond to a large number of cases quickly. This burden cannot justify further delays.

6. Deciding such a large number of cases will probably lead to a surge of appeals to the court of appeals for the Second Circuit. Certificates of appealability should not be unnecessarily granted. They should be provided only where warranted by the law and the facts. Where a petitioner requests, a notice of appeal should be filed on his or her behalf. Prosecution of any appeal and applications in the court of appeals for certificates of appealability or for counsel on appeal are not matters we can assist petitioners with.

7. All hearings will be conducted in public.

8. A short memorandum and order incorporating the court's oral findings on the record will normally be appropriate. The memorandum and order may cull from the briefs of either party by paraphrase or direct quotation.

9. The court is not limited to the exact points made by petitioners, who are usually

proceeding pro se.


10. The record should be searched to see whether a substantial issue has been overlooked by petitioner. Such an error has to be weighed with the evidence of guilt and the total fairness of the trial, as evidenced by the record and material *de hors* the record.

11. While evidentiary hearings should be kept to a minimum, if there is a substantial federal issue, an evidentiary hearing should be held.

12. Burdening the state courts with unnecessary, repeated returns to exhaust should be avoided. When consonant with law and the facts, a case should be shaped for final disposition without additional collateral proceedings.

 SO ORDERED. 

S/JACK B. WEINSTEIN

 Jack B. Weinstein
Senior District Judge

Dated: May 1, 2003
Brooklyn, NY

Pending State Habeas Cases Reassigned to Judge Weinstein

96cv	5408	Moore v. Keane
97cv	1576	Covington v. Lord
97cv	1992	Plunkett v. Keane
97cv	2155	Murden v. Artuz
97cv	2279	Kolb v. Goord
97cv	2378	Batten v. Greiner
97cv	2380	Weeks v. Senkowski
97cv	2443	Vega v. Warden, Clinton Correctional
97cv	2482	Alexandre v. Senkowski
97cv	3564	Ross v. Artuz
97cv	3735	Mohamed v. Portuondo
97cv	6868	LiFrieri v. Stinson
97cv	7536	Majid v. Portuondo
98cv	64	Morgan v. Portuondo
98cv	273	Hartfield v. Costello
98cv	887	Golden v. Artuz
98cv	1293	Santos v. Artuz
98cv	1692	Garcia, et al v. Dufrain
98cv	1885	Farmer v. Vacco
98cv	2094	Duren v. Bennett
98cv	2439	Cortez v. Artuz
98cv	2987	Bowers v. Greiner
98cv	3069	Walker v. Strack
98cv	3528	Hoffman v. Kuhlmann
98cv	3827	Rolling v. Johnson
98cv	5358	Vega v. Portuondo, et al
98cv	5615	Smith v. Keane
98cv	5621	Benn v. Greiner
98cv	5880	Bowe v. Lord
98cv	6086	Clark v. Kuhlmann
98cv	6283	Dominick v. Greiner
98cv	6289	Lake v. Greiner
98cv	6344	Evans v. Senkowski
98cv	6372	Oyague v. Artuz
98cv	7680	Gordon v. Mantello
98cv	7837	Jenkins v. Artuz
98cv	7933	Burton v. Stinson
98cv	8050	Bravo v. Couture

99cv	323	Dowtin v. Cohen
99cv	335	Jimenez v. Artuz
99cv	615	Waters v. McGinnis
99cv	734	Brisbane v. Greiner
99cv	733	Dickman v. Herbert
99cv	784	Walker v. Murray
99cv	1255	Amaker v. Senkowski
99cv	1292	Watson v. David
99cv	1495	Rios v. Artuz
99cv	1617	Morales v. Stack
99cv	1708	Martinez, et al v. Senkowski
99cv	1866	Sheperd v. Portunda
99cv	2053	Matthews v. Greiner
99cv	2170	Goins v. David
99cv	2485	Samuel v. Miller
99cv	2561	Custodio v. Duncans
99cv	2591	Fagan v. Kuhlmann
99cv	2754	Michalek v. Artuz
99cv	2826	Eisenmann v. Herbert
99cv	2870	Spence v. Greiner
99cv	3008	Whitfield v. Artuz
99cv	3380	Lyons v. Leonardo
99cv	3758	Reyes v. Irwin
99cv	4662	Winslow v. Portundo
99cv	4663	Martinez v. Greiner
99cv	4675	Davis v. Warden Clinton Corr. Facility
99cv	5029	Jacobs v. Miller
99cv	5230	Smith v. Greiner
99cv	5322	Jones v. Kuhlmann
99cv	5660	Valle v. Greiner
99cv	5917	Harvey v. Walker
99cv	6415	Olivencia v. Berbary
99cv	6519	Hannigan v. Comm. of Correctional
99cv	6565	Keeling, et al v. Nassau Cty Supreme Court
99cv	6707	Wong v. Barkley
99cv	7222	Powell, et al v. Senkowski
99cv	7285	Blasich v. Belfi, et al
99cv	7351	Gayle v. Hogan
99cv	7875	Longshore v. Strack
99cv	8114	Velasquez v. Mantello
99cv	8161	McCray v. State of New York
99cv	8216	Cox v. Dinnelly

99cv	8313	Dominguez v. Portuondo
99cv	8536	Cortorreal v. Artuz
00cv	16	Brown v. Artuz
00cv	503	Flamenco v. Sabourin
00cv	544	Yusov v. United States Depart, et al
00cv	632	Serrano v. Miller
00cv	661	Delano v. Greiner
00cv	804	Thom v. Artuz
00cv	860	Brathwaite v. Duncan
00cv	985	Beniquez v. Bennett
00cv	996	Green, et al v. Mazzula
00cv	1010	Davis, et al v. Johnson
00cv	1102	Elliott v. Artuz
00cv	1110	Burgess v. Poole
00cv	1158	Lopez v. Walker
00cv	1183	Faison v. Mantello
00cv	1270	Deonarian v. Greiner
00cv	1332	Johnson v. Arutz
0c0v	1375	Washington v. Artuz
00cv	1376	Stewart v. Mazzuca
00cv	1738	Anderson v. Ricks
00cv	1759	Brown v. Bennett
00cv	2073	Annuziata v. McLaughlin
00cv	2264	Springs v. Walsh
00cv	2265	Maldonado v. Artuz
00cv	2349	Granston v. McGinnis
00cv	2604	Wallace v. Artuz
00cv	2718	Rogers v. Artuz
00cv	2819	Gordon v. Herbert
00cv	2836	Johnson v. People of State NY
00cv	2953	Payton v. Fischer
00cv	3054	Reid v. Fischer
00cv	3124	Taylor v. Sabourin
00cv	3212	Calvert v. Mazucca
00cv	3264	Andujar v. Mantello
00cv	3331	Velez v. Sabourin
00cv	3438	Nunez v. Miller
00cv	3573	Atkinson v. Portuando
00cv	3574	Mendez v. O'Keefe
00cv	3578	Hinds v. Ricks
00cv	3599	Jimenez v. Walker
00cv	3610	Jackson v. NY State

00cv 3612 Turner v. Walker
00cv 3692 Stewart v. Mantello
00cv 3746 Brooks v. Ricks
00cv 3749 Ortega v. Walsh
00cv 3930 McKay v. McCray
00cv 3981 Woodson v. Mazzuca
00cv 4007 Cunningham v. Poole
00cv 4066 Galdamez v. Keane
00cv 4010 Smith v. Duncan
00cv 4171 Willis v. Duncan
00cv 4237 Allaway v. Bennet, et al
00cv 4238 McRae v. People of the State NY
00cv 4340 Mazzuca v. Franco, et al
00cv 4630 Rodriguez v. Artuz
00cv 4641 Denny v. Donnelly
00cv 4780 Chester v. State of New York
00cv 4813 Melendez v. Mazzuca
00cv 4828 Baker v. Walker
00cv 4857 Daniel v. Greiner
00cv 4883 Zheng v. Miller
00cv 4962 Rivera v. Portuondo
00cv 5135 Williams v. Senkowski
00cv 5191 Brown v. Walker
00cv 5251 Kirschstein et al v. Portuondo
00cv 5425 Ciaprazi v. Senkowski
00cv 5432 Francis v. Artuz
00cv 5444 Vargas v. Sabourin
00cv 5580 Madramooto v. Fischer
00cv 5614 Wilder v. Greiner
00cv 5882 Brown v. Keane
00cv 6003 Wilkerson, et al v. Senkowski
00cv 6079 Clarke v. Bennett
00cv 6529 Utenyshev v. Portuondo
00cv 6532 Gwathney v. Sabourn
00cv 6584 Farr, et al v. Senkowski
00cv 6651 Parkinson v. Costello
00cv 6661 Vega v. Lord
00cv 6861 Grant v. Ricks
00cv 6946 Seechran v. Mazzuca
00cv 7272 Bartley v. Senkowski
00cv 7317 Sandino v. Greiner
00cv 7479 Brown v. Walker

00cv	7503	Zheng v. Greiner
00cv	7550	Andrews v. Fischer
00cv	7675	Diaz v. Goord
01cv	24	Sosa v. Breslin
01cv	85	Ortiz v. Miller
01cv	143	Adamson v. Mazzuca
01cv	322	Kitnurse v. Duncan
01cv	451	Applegate v. Herbert
01cv	501	Jackson v. Edwards
01cv	520	Blandon v. Fischer
01cv	573	Finger v. Walker
01cv	628	Edmonds v. Miller
01cv	654	Monroe v. Kuhlman
01cv	776	Bond v. Walsh
01cv	803	Donovan v. Levine
01cv	992	Hunter v. Fillion
01cv	1157	Rivera v. Greiner
01cv	1230	Carolan v. Miller
01cv	1234	Alexander v. Greiner
01cv	1252	Cole v. Greiner
01cv	1325	Youmans v. Fischer
01cv	1440	Gibbs v. Greiner
01cv	1445	Belezza v. Fischer
01cv	1594	Gold v. Fischer
01cv	1660	Woods v. Miller
01cv	1697	Grieco v. Goord
01cv	1719	Wilson v. Breslin
01cv	1992	Walker v. Girdich
01cv	2028	Sanchez v. Greiner
01cv	2097	Floyd v. Miller
01cv	2296	Tang v. Greiner
01cv	2300	Cooper v. Fischer
01cv	2329	Coleman v. Ricks
01cv	2439	Angarita v. Goord
01cv	2814	Idlett v. Andrews
01cv	2892	Cruz v. McGauane, et al
01cv	2913	Royster v. Senkowski
01cv	2947	Rudolph v. Senkowski
01cv	3174	Gooden v. Fischer
01cv	3256	Santiago v. Miller
01cv	3328	Fergus v. Duncan
01cv	3385	Boyd v. Portuondo

01cv	3386	Toro v. Herbert
01cv	3399	Brooks v. Bennett
01cv	3401	Pilsaime v. Fillion
01cv	3411	Cross v. McGinnis
01cv	3461	Brown v. NY State
01cv	3438	Rivers v. Doe
01cv	3860	Petit v. Goord
01cv	3911	Page v. Miller, et al
01cv	3992	Claros v. Duncan
01cv	4068	Nunez v. Duncan
01cv	4125	Walsh v. Sabourin
01cv	4299	Hayes v. Fischer
01cv	4349	Gibson v. Sabourin
01cv	4355	Hamilton v. Miller
01cv	4552	Hewitt v. Greiner
01cv	4588	Campbell v. Greiner
01cv	4809	Barber v. Breslin
01cv	5154	Green, et al v. Duncan
01cv	5265	Bedell v. Greiner
01cv	5276	Jones v. Greiner
01cv	5467	Wimms v. Girdich
01cv	5484	Crichton v. Greiner
01cv	5768	Blunt v. Senkowski
01cv	5897	McKenney v. Herbert
01cv	5952	Turner v. Sabourin
01cv	6026	Byrd v. Senkowski
01cv	6060	Cousin v. Bennette
01cv	6080	O'Quinn v. Fischer
01cv	6116	Perdomo v. Pearlman, et al
01cv	6118	Brewer v. Portuondo
01cv	6122	Williams v. Duncan
01cv	6188	George v. Edwards
01cv	6301	Mobley, et al v. Senkowski
01cv	6490	Young v. Greiner
01cv	6505	Vellon v. David
01cv	6509	Lewis v. Greiner
01cv	6652	Ram v. District Attorney
01cv	6687	Lu v. Portuondo
01cv	6911	Graham v. Portuondo
01cv	7000	Turner v. Miller
01cv	7005	Farrington v. McLaughlin
01cv	7016	Smith v. Greiner

01cv	7316	Bunch v. Keane
01cv	7319	Alston v. Portuondo
01cv	7328	Aycardi v. Queens County
01cv	7346	Jones v. Portuondo
01cv	6421	Etoria v. Bennett et al
01cv	7418	Welsh v. Zon
01cv	7455	Melendez v. Senkowski, et al
01cv	7511	Crenshaw v. Herbert
01cv	7759	Gettes v. Greiner
01cv	7712	Davis v. Greiner
01cv	7819	Salmon v. Portuondo
01cv	7841	Hester, et al v. Herbert
01cv	7922	Slavik v. Walsh
01cv	7996	Tomlinson v. Miller
01cv	8016	Singletary v. Fischer
01cv	8226	Moore v. Dillon
01cv	8309	Ramirez v. Portuondo
01cv	8318	Runnon v. Miller et al
01cv	8341	King v. Hodges
01cv	8363	Hamilton v. Herbert
01cv	8394	Kinloch v. Greiner
01cv	8454	Goldberg v. Tracy
01cv	8523	Gonzalez v. Fischer
01cv	8525	Delgado v. Duncan
01cv	8571	Scott v. Bednosky
01cv	8582	Smith v. Goord
01cv	8583	Wood v. Duncan
02cv	9	Craig v. The People of the State of NY
02cv	39	Jeffers v. Fischer
02cv	41	Hardy v. Bennett
02cv	180	Fernandez v. Bennett
02cv	189	Benjamin v. People of the State of New York
02cv	265	Sumpter v. Sabourin
02cv	285	Figueroa v. Fischer
02cv	286	Rivera v. Bennett el al
02cv	438	Harrison v. Shannon
02cv	476	White v. Herbert
02cv	526	Thompson v. Fischer
02cv	598	Wynter v. Burge
02cv	641	Burnett v. Greiner
02cv	647	Douglas v. Mazzuca
02cv	670	Flowers v. McCoy

02cv	678	Costa v. Hollins
02cv	960	Stallone v. Ricks
02cv	1016	Bailey v. Sabourin
01cv	1021	Davilla v. Breslin
02cv	1116	William v. Greiner
02cv	1165	Echevarria v. Edwards
02cv	1170	Marros v. Ekpe
02cv	1175	Miller v. State of New York
02cv	1199	Oge v. Greiner
02cv	1304	Southerland v. Goord et al
02cv	1347	Jones v. David
02cv	1351	Jamison v. Greiner
02cv	1397	Lizardi v. Duncan
02cv	1443	Washington v. Miller
02cv	1444	Smith v. Tracy
02cv	1522	Penezo v. Portuondo et al
02cv	1560	Charriez v. Greiner
02cv	1606	Lopez v. Rivera
02cv	1639	Brower v. Ricks
02cv	1671	Brooks v. McGinnis
02cv	1789	Johnson v. Greiner
02cv	1844	Linares v. Greiner
02cv	2052	Garcia v. Herbert
02cv	2060	Vargas v. Girdich
02cv	2073	Ortiz v. Herbert
02cv	2074	Williams v. Senkowski
02cv	2119	Robinson v. Miller
02cv	2184	Barclay v. Spitzer et al
02cv	2315	Mach v. Fillion
02cv	2567	Sidiropulo v. Goord
02cv	2583	Pauling v. Greiner
02cv	2585	Montalbano v. Breslin
02cv	2718	Camacho v. Queens Supreme Court
02cv	2753	Colon v. Walsh
02cv	2770	Brown v. Duncan
02cv	2783	Carrington v. Walsh et al
02cv	2883	Bush v. Portuondo
02cv	2949	Henry v. Poole
02cv	2952	Clifford v. Keane
02cv	3117	Lyons v. Girdich
02cv	3136	Soto v. Miller
02cv	3167	Glen v. Senkowski

02cv	3260	De Palo v. Burge et al
02cv	3299	Savastano v. Hollins
02cv	3311	Davis v. Travis
02cv	3424	Masi v. McCray
02cv	3430	Skinner v. Dunkin
02cv	3452	Shepherd v. Sup. of Elmira Corr Facility
02cv	3529	Bonadie v. Mazzucca
02cv	3545	Ford v. Senkowski
02cv	3643	Fontaine v. Filion
02cv	3650	Robinson v. Superintendent of Southport Correctional Facility
02cv	3655	Curry v. Bennett
02cv	3658	Ashley v. Portuondo
02cv	3678	Mitchell v. Fischer
02cv	3681	Pulinario v. Goord
02cv	3704	Carter v. Goord
02cv	3707	Peggs v. Reilly
02cv	3747	Phillips v. Bennett
02cv	3752	Johnson v. The People of the State of New York
02cv	3807	Hernandez v. Goord
02cv	3815	Peggs v. Reilly
02cv	3833	Sutherland v. Senkowski
02cv	3854	Greene v. Fischer
02cv	3866	Owens v. Rivera
02cv	3884	Peggs v. Reilly
02cv	3973	Gersten v. Senkowski et al
02cv	3987	Young v. Fischer
02cv	3991	Singh v. USA
02cv	4051	Dicks v. Ekpe
02cv	4149	Allah v. Duncan
02cv	4198	Green v. Portuondo
02cv	4271	McKinney v. Herbert
02cv	4276	Portillo v. Senkowski
02cv	4299	Denny v. Greiner
02cv	4319	Birch v. Greiner
02cv	4435	Odom v. Portuondo
02cv	4466	Wade v. Herbert
02cv	4483	Rosero v. Burge
02cv	4492	Taus v. Senkowski
02cv	4599	Ato v. Bednosky
02cv	4601	Hinton v. Fischer
02cv	4602	Gssime v. Greiner

02cv	4725	Walker v. Senkowski
02cv	4727	Collins v. Greiner
02cv	4824	Abbas v. Elmira Corr Facility
02cv	4908	Davis v. Herbert
02cv	4929	Delgado v. Duncan
02cv	4934	Zappulla v. NYS
02cv	4941	Anderson v. Tracy et al
02cv	4942	Coleman v. McKinney
02cv	4943	Cartagena v. Greiner
02cv	5001	Hinson v. Walsh
02cv	5035	Egbert v. David
02cv	5036	Seabury v. Portend
02cv	5105	Guerier v. Arnets
02cv	5158	Gren v. Greiner et al
02cv	5236	Fulford v. Burge
02cv	5240	Leung v. Mazzuca
02cv	5243	Perez v. Philiiips
02cv	5258	Delio v. NYS
02cv	5345	Henry v. Walsh
02cv	5379	House v. Miller
02cv	5489	Gorman v. Goord
02cv	5490	Scott v. Phillips
02cv	5502	Chisholm v. Girdich
02cv	5553	Palladino v. Perlman
02cv	5586	Mungo v. Duncan
02cv	5633	White v. Smith
02cv	5773	Pulliam v. Phillips
02cv	5774	Cano v. Walsh
02cv	5778	Wells v. Miller
02cv	5790	Johnson v. Phillips
02cv	5819	Moss v. Spitzer
02cv	5883	Brooks v. Donnelly
02cv	5886	Orlick v. Warden
02cv	5887	Walker v. Moscicki
02cv	5891	v. Wilson et al
02cv	5899	Filsaime v. Smith
02cv	6016	Green v. Travis et al
02cv	6043	Smith v. Smith
02cv	6044	Brown v. Breslin
02cv	6045	Morales v. Walsh
02cv	6111	Livoti v. Girdich
02cv	6112	Ciatto v. Senkowski

02cv	6113	Musa v. Senkowski
02cv	6118	Johnson v. Girdich
02cv	6120	Collazo v. Duncan
02cv	6157	Thurston v. McGinnis
02cv	6305	Abimbola v. NYS
02cv	6308	Brown v. Poole
02cv	6312	Berrios v. Senkowski
02cv	6329	Smith v. Scully
02cv	6336	Mitchell v. Fischer
02cv	6339	Akaykin v. Herbert
02cv	6436	Deoleo v. Miller
02cv	6458	Velilla v. Senkowski
02cv	6514	Wright v. McKinney
02cv	6550	Graves v. Phillips
02cv	6578	Singh v. Miller
02cv	6610	Allen v. David
02cv	6658	Robinson v. NYS
02cv	6679	Somerville v. Conway et al
02cv	6710	Harris v. Senkowski
02cv	6713	Shields v. Duncan
02cv	6737	Simms v. Herbert
02cv	6799	Galandreo v. Perlman